IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 19TH OCTOBER 2007 / 27TH ASWINA 1929

WP(C).No. 29971 of 2007(R)

PETITIONER:

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1. K.A.MOHAMMED, PROPRIETOR,
   M/S.HIGHWAY STORES, CHANDIROOR,
   CHERTHALA TALUK, ALAPUZHA DISTRICT.

2. A.THANKAPPAN, S/O.AYYAPPAN,
   KALATHILVEETTIL, CHANDIROOR, CHERTHALA TALUK,
   ALAPPUZHA DISTRICT.

BY ADV. SRI.H.BADARUDDIN
SRI.K.K.MOIDEEN

RESPONDENTS:

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1. THE STATE BANK OF TRAVANCORE,
   AROOR BRANCH REP. BY ITS BRANCH MANAGER,
   AROOR P.O., CHERTHALA TALUK, ALAPUZHA DISTRICT.

2. THE AUTHORISED OFFICER (CHIEF MANAGER)
   (ADVANCES), STATE BANK OF TRAVANCORE,
   ZONAL OFFICE, ERNAKULAM, PANAMPILLY NAGAR,
   COCHIN - 36.

BY ADV. SRI.R.S.KALKURA
SRI.SATHISH NINAN SC FOR BANK
SRI.SANTHOSH MATHEW

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J

W.P.(C).29971/2007

Dated this the 19th day of October, 2007

JUDGMENT

This writ petition has been filed by a borrower of the first respondent, Bank, who had availed of amounts from the Bank. The Bank initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and notice under Section 13(2) of the Act, was issued to which reply has been filed. Thereupon, Bank has passed an order and it is at this stage writ petition has been filed. Honourable Supreme Court in **Mardia Chemical v. Union of India (2004 (2) KLT 273 [SC])** in paragraph 80 held that "on measures having been taken under sub Section (4) of Section 13 and before the date of sale/auction of the property, it would be open for the borrower to file an appeal (petition) under Section 17 of the Act before the Debt Recovery Tribunal." In view of this petitioner should file an appeal against the action of the respondent and with that liberty this writ petition is closed.

ANTONY DOMINIC
Judge

mrcs